COMMUNICATIONS LAW REFORM

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Ms. BINGAMAN. Mr. Chairman, thank you very much for having us. We appreciate it very much.

Mr. IRVING. Thank you, Mr. Chairman, and we will be back to you with our further comments.

Mr. FIELDS. Thank you very much.

Chairman Hundt, we welcome you to the table.

It's my pleasure to welcome to the subcommittee, the Honorable Reed Hundt, Chairman of the Federal Communications Commission. Chairman Hundt, we will afford you the same courtesy that we afforded the first panel. We won't put a time limit. We just ask that you show some restraint and recognize that it will be a long day.

STATEMENT OF HON. REED E. HUNDT, CHAIRMAN, FEDERAL COMMUNICATIONS COMMISSION

Mr. HUNDT. Thank you for inviting me. I recognize that this is the dreaded lunchtime appearance, and I will aspire to be very brief in my opening comments.

I want to congratulate you, Mr. Chairman on the very hard work that you and your staff clearly put into this bill. I want to compliment the whole committee. I know that there was a bipartisan process and that although there is disagreement on some provisions, there is agreement on a substantial amount of the provisions and I think the nation should recognize that.

I would like to state clearly that there cannot be a more knowledgeable chairman or more knowledgeable committee in all of Congress, and it's a privilege to appear in front of you.

Why is this bill important? Mr. Chairman, the most recent example that I had was a couple of days ago in Richardson, Texas, in your home State. I went to the Richardson Junior High School and I saw there that wireless communications technology has been put into every classroom, due to a charitable effort by Southwestern Bell and the Cellular Telephone Industry Association.

As a result of this experiment—the first of its kind in the country—it has been discovered that productivity for that school has gone up 10 percent in just the first year. Fifteen days of teaching have been saved, per teacher, by the use of communications technology. We shouldn't be surprised. This is the exact same phenomenon that has been discovered by American business as communications technology has permitted us to vault into first place in productivity, worldwide.

Your bill gives the FCC a mandate to create incentives that will help us build communications networks into every classroom—and I want to thank you and congratulate you for that. Your bill, second, is important because it is going to create a greater likelihood that the children at Richardson Junior High School, and all the other children in the country will be able to move into a thriving economy in 21st century America, and that they will have good jobs, high-paying jobs waiting for them.

The majority of high-paying jobs created in this country today lie in the communications, information, entertainment and affiliated sectors in this country. That's why the efforts that you're engaged in here in your committee, Mr. Chairman, are important.

Now we're all counting on competition to do the job of creating jobs; and to make our economy thrive. We can count on competition to do that. That is the number one lesson of antitrust law, and I spent 20 years as an antitrust lawyer before I got my current job, and I believe in it to the very core of my set of values.

Our problem is that we have extremely limited competition in major communications markets. Cable has more than 60 million subscribers, its competitors—excluding the C-Band dishes, which you can't use in most areas—number less than 3 million. Ninety-nine percent of all telephone calls start and end in a monopoly.

Long distance competition is less vigorous than it should be. A glaring contrast, when we're able to—as Ronald Reagan used to say—"obsolete problems." When we're able to find new ways to bring in new competition, we can solve these bottlenecks, these monopoly situations. The best example out there in the market today is PCS, the cellular monopoly that Assistant Attorney General Bingaman talked about was a real problem in this country.

It has been solved, in my opinion, by the PCS auctions, which are bringing in three new competitors. Everyday you pick up an article from a newspaper that talks about how it's bare-knuckle competition, prices are going down, jobs are being created, the number of subscribers is going through the roof, this is the best thing going on in the communications sector. The PCS, local communications market is the most vigorous communications market in any country in the world. That's what we want to see in every one of the markets that is now dominated by monopolists.

Two key steps. First, take down all the barriers. This bill does that. Second, give the government the ability to create fair rules of competition. The bill does, in fact, aspire to that end.

What is our big concern here? Our concern is this, suppose all of these very, very large industries turn out to be like Sumo wrestlers, pawing the ground endlessly, throwing the chalk in the air, muttering various implications, but in fact, never quite rushing their huge bulks into competition with each other—spending their time threatening, but not competing?

The only way to avoid that is to make sure that fair rules of competition are created so that the invitation to compete becomes irresistible. That's the core issue in this bill. Does it do enough to create those fair rules of competition? I respect the intent. I want to mention several concerns and then cease and let you ask any questions that you wish.

First, I'm concerned about certain provisions that appear to strengthen the cable monopolies at the expense of their competitors.

Second, I'm concerned about whether the bill gives sufficiently explicit legal authority to the FCC to scrutinize and enforce the spirit and meaning of the checklist conditions and the other conditions of like entry into long distance.

Third, I am concerned about the possibility of promoting regional and local media monopolies, before the conversion to digital that will totally alter the scarcity question for the media.

Fourth, I'm concerned about the prospects of foreign monopolies being able to buy into our markets, while they are still monopolizing their home markets; and as the global media developments

occur that the congressman mentioned earlier, we must be attentive to the fact that if a foreign company is a monopolist in its own country, it has the prospect of using that monopoly to leverage unfair competition into this country. I'm concerned about that.

These are the concerns that I have. I have some other more detailed concerns, but I understand, Mr. Chairman, that this bill is being discussed today in an open atmosphere and that these concerns may well be that which you would wish to follow up on with me, and with the other witnesses. I am confident that progress can be made, and that the right bill for the country can come from this committee in very short order.

Thank you for inviting me.

[The prepared statement of Hon. Reed E. Hundt follows:]

PREPARED STATEMENT OF HON. REED E. HUNDT, CHAIRMAN, FEDERAL COMMUNICATIONS COMMISSION

INTRODUCTION

Mr. Chairman and Members of the Subcommittee: It is a pleasure and a privilege to appear before you today to discuss H.R. 1555, the "Communications Act of 1995", and telecommunications reform in general. The Members and their staffs who participated in its drafting are to be heartily commended. H.R. 1555 represents a comprehensive effort, building on those of the last Congress, to bring the communications laws up to date to reflect the tremendous changes in this sector.

First, I want to note how much I support the basic policy thrust of promoting competition in telecommunications markets. The bill will advance this goal in many areas. There are provisions, however, that I believe should be reexamined. In one vitally important policy area—bringing advanced telecommunications services into our classrooms and libraries and anchoring them in all our communities—I think we need to do more.

THE COMMISSION'S ROLE

H.R. 1555 commits considerable responsibility to the Commission to carry out the bill's policy. By doing so, it recognizes that in several vital areas, competition remains but a goal and legislative as well as administrative action will be necessary to make this a reality. The bill recognizes that in the absence of a competitive environment, neither the purchasers of goods or services, or the economy as a whole, are well served. H.R. 1555 comprehends that it is the transition of moving markets toward a competitive environment where the work of the Commission, as well as state authorities, is imperative.

Competition is an effective means of pursuing lower costs and prices, higher quality, innovation, and quick response to changing needs. But competitive markets do not suddenly mature by legislative or administrative mandate. The Commission has long worked to foster competition. In the deregulation of customer premises equipment ("CPE"), in the development and implementation of a system permitting competing long distance companies to use the local telephone network to originate and terminate calls, and in the creation of the technical capability that permit consumers to select their long distance carrier, the Commission has played a critical role in removing barriers to entry by new competitors and ensuring that users have access to competing service providers. In the development of the new personal communications services (PCS), the Commission's key premise was to allow the market to determine the number of competitors, the services offered and prices charged.

The Commission's work in PCS has demonstrated the tangible benefits of competition. With the authority that Congress gave the Commission in 1993, it launched the first-ever auctions of the public airwaves, permitting the market rather than bureaucrats and lobbyists, to determine who gets valuable wireless licenses. High bids in the auctions the Commission has held to date total nearly $9 billion—the equivalent of $35 per United States citizen or about $100 per U.S. household. That is also $9 billion toward deficit reduction. Just as important the PCS auctions introduced advanced wireless telephone and data services, stimulating tens of billions of dollars in investment and creating hundreds of thousands of jobs throughout the country. PCS will provide competition to the cellular telephone business, reducing rates dramatically. There are predictions that 40% of the population will be wireless users

in ten years and that wireless will challenge the traditional wired network for basic phone service.

The Commission's role in removing barriers to entry by new competitors and ensuring that users have access to competing service providers is further reflected in its expanded interconnection proceeding. Expanded interconnection enables competitive access providers (CAPs), interexchange carriers (IXCs), and others to terminate their own transmission facilities at the local exchange carrier's (LEC) central office and to interconnect with interstate access services, including switched and special access services. Its import is greater user choice, increased LEC efficiency, faster deployment of new technology and reduced rates for services.

Additionally, in implementing the program access policies of Title VI of the Communications Act, the Commission's work has been directed toward enhancing competition and diversity in the video programming market. The provisions of the law prohibit unfair or discriminatory practice in the selling of programming to multichannel programming distributors. The Commission's implementation has set a careful balance of prohibiting exclusivity in the sale of video programming except where such exclusivity is justified by factors such as promotion of new services.

In these and a range of other areas, the Commission has shown its commitment to competitions value. Its actions show that these efforts include confronting unnecessary or duplicative regulations do increase costs and hinder development of fully competitive markets in telecommunications services. This is a fundamental aspect of the Commission's responsibilities.

That competition is effective does not mean that its potential is an adequate substitute. In several important market segments, most notably local telephone service and cable service, competition has not arrived. Furthermore, competition will not reach all areas and all users at the same time. Competition arrives first to high-volume users in urban and suburban areas. The telecommunications revolution is in transition to a new environment where there can be choice among competing suppliers of local, long distance, video and wireless telephone services. In this transition, federal and state officials have a responsibility to promote competition wherever and whenever possible and to enhance access to competitive markets for both consumers and providers of services and products. They must be cognizant of markets not yet competitive and have an ability to refrain from imposing obligations that undermine rather than foster the continued development of competitive markets.

But there are limits to what the Commission can do within its present authority alone. The American people and business need telecommunications legislation to bring about a new era of competition. H.R. 1555 provides the impetus in many important respects.

For example, H.R. 1555 addresses the interconnection responsibilities of telecommunications providers which are essential to telephone competition. The specific interconnection duties enumerated for local exchange carriers provide the Commission with the guidance it needs to promulgate clear rules. In addition, H.R. 1555 commits to the Commission the flexibility necessary to permit it to refrain from imposing obligations that would undermine rather than foster competitive markets. While these responsibilities are well within the Commission's expertise, the timeframes imposed, as well as the potential number of individual petitions the Commission will have to act upon imposes a substantial challenge.

The provisions of H.R. 1555 relating to license terms of broadcasters seek to structure a two step license renewal process. These provisions are consistent with recommendations of the Commission's Special Counsel on Reinventing Government.

With respect to foreign ownership restrictions contained in current law, reexamination of these provisions is timely and appropriate. Section 310 is a most powerful lever in opening restricted overseas markets to U.S. investment. But it would be a mistake simply to repeal Section 310(b). Any change should be flexible enough to be market opening, not market closing. The Commission has instituted a proceeding proposing that the public interest standard it uses in determining whether to apply Section 310 take into account the reciprocal openness of the market in the nation from which a potential foreign owner comes. Any revision of Section 310 should embody this reciprocity principle.

As to advanced television, it is essential that after a reasonable transition period, the government recapture the current analog spectrum. Only then will large amounts of contiguous nationwide spectrum be available so that its value is maximized to spur additional jobs, investment competition and auction revenue. Additionally, any fee structure that is imposed should not distort use and stifle consumption. The Commission should also not become intensely involved in monitoring, allocating and auditing the relative uses of the spectrum. The sections of H.R. 1555 relating to advanced television raise these concerns.

The extensive provisions of H.R. 1555 that address the local telephone exchange and impose interconnection responsibilities on the local exchange carriers, as well as the conditions for entry into long distance service by the Bell Operating Companies, are carefully tailored to ensure that a fair competitive balance emerges. In contrast the provisions addressing cable, where there is similarly virtually no competition, reflect no such balance. The definition of effective competition will deregulate the cable programming services tier in most markets, without a showing of actual competition or service offerings by potential competitors. Further, in setting a new threshold for rate complaints, the authority of the franchising authority is eliminated. The provision will essentially eliminate the ability of individual subscriber complaints to be considered or reviewed.

SERVING ALL AMERICANS

The provisions of H.R. 1555 addressing the reform of universal service seek to ensure that its important objectives are implemented in a manner that does not distort efficient investment or competitive markets. The bill recognizes the need for a comprehensive review and directs the Commission to commence its review promptly.

Importantly, H.R. 1555 needs to be expanded to bring the benefits of telecommunications to all Americans. President Clinton and Vice President Gore have stated a national goal of connecting the nation's schools and libraries to the information superhighway by the Year 2000. Speaker Gingrich has noted the importance of bringing advanced telecommunications to the schools. It was only last week that I appeared with him at a public school in Washington to demonstrate how telecommunications technology can enhance the education of our Nation's children.

The information revolution is leaving our schools behind. As telecommunications technology increases productivity and access to information across our economy, our classrooms are cut off from the communications revolution. Sadly, an educator from the 19th Century would feel completely at home with the technology of today's classroom. Every day, 45 million teachers and students enter a setting in which only 12% of the workplaces—the classrooms—have even basic phone lines. In this day and age, in which every shipping clerk is hooked up to a computer network and half of all workers use a computer at work, only 3% of the classrooms are networked.

A computer network connected to the classroom means that every teacher and child has access to the worlds greatest libraries; every child can improve his or her math skills by working with tutors and interactive programs on-line. Basic literacy today has to include computer literacy.

Teachers can be far more productive on a network. Studies show productivity increases of as much as 30%. Networked teachers can exchange lesson plans, get tips from their colleagues, or obtain access to the Library of Congress or the National Archives for teaching materials. In rural areas, you can teach subjects through distance learning that the consolidated school district can't provide teachers for. Yet teachers simply do not have adequate tools to use the resources of the information revolution.

Technology can draw parents into the education process. Already, in schools that use simple voice-mail technology, parents can call into a mailbox to find out the homework assignment or information about a class trip. In the future, classroom networks could eventually extend to the home and thereby fulfill what educators say is their biggest unmet need: lengthening the learning day and involving the parents.

These community nodes can be the town squares of the future. They can serve rural areas as well as the inner city. A fundamental element of universal service should include improving the quality of educating our children. We will not have to network every home if there is ready access in the community to advanced telecommunications services.

The private sector needs to develop the technology and do the work to network the classrooms and libraries. But there is an important leadership role for federal, state and local government. I suggest the following principles:

Assist with installation costs. The initial cost of networking the classrooms is the largest of all classroom network start-up costs. Every classroom should have e-mail and the capability to access the Internet. Preferential service rates for schools will only help once the network is in place.

Identify a support mechanism that is fair and efficient. The mechanism chosen should not burden a narrow set of ratepayers. A universal service support mechanism from all telecommunications carriers should be considered.

Create no new bureaucracy. An education support fund might be created resembling the Universal Service Fund.

Be technology neutral. Schools should be free to choose among competing networking technologies and providers, i.e., satellite, cable television, wireless cable, and wireless telephone, in addition to local telephone connections.

Create network and leverage other investments. In order to keep the cost low and ensure that awards are made only to school authorities committed to using and maintaining the technology, support should be based on a matching commitment to create the network—and not to fund the purchase of computers, program software, or teacher training. Developing networks should inspire educational technology markets and economies of scale.

CONCLUSION

In summary, the world has changed dramatically since enactment of the Communications Act of 1934. The technological innovations, the entrepreneurial zeal that pervades many aspects of the industry, the extraordinary growth and enhanced rivalry, have contributed to its primacy in our economy and its impact on the quality of the lives of the citizens. These changes, however, have not brought about competitive markets in several vital areas, nor will the enactment of legislation. Nor are technological advances alone enough to make their benefits accessible to those in the most need, our children. It is only through the commitment to bring about competitive markets, and entrusting the Commission with the necessary tools and resources to effectuate these important principles, can the new environment fulfill the promise of enhancing the lives of all Americans.

Again, I appreciate the opportunity to appear today. As always, the Commission's staff is available to assist the Committee in any way in bringing this legislation forward to enactment.

Mr. FIELDS. Thank you for that testimony.

Chairman Hundt, let me just ask. We do have a vote pending on the floor. If this committee were to stand and recess until 12:45, would that conflict with your schedule? Would you be able to come back?

Mr. HUNDT. I will be happy to abide by that.

Mr. FIELDS. Okay. This subcommittee will reconvene at 12:45.

[Brief recess.]

Mr. FIELDS. The subcommittee is called back to order.

Chairman Hundt, let me recognize myself for 5 minutes and begin. You made a statement in your opening remarks that you thought that the checklist—and I may be paraphrasing—was a good start, but that you felt that there might be some gaps that could present some problems to the Federal Communications Commission.

Could you identify what you see as shortcomings?

Mr. HUNDT. Well, I'm not so sure I'd put them in the category of shortcomings, but what I was specifically alluding to is, number one, I'm concerned that it be clear that the FCC has the legal authority to in fact scrutinize the verifications that are supposed to be filed pursuant to the checklist scheme; and to make an independent and reasoned judgment about whether the checklist has been met.

I'm really raising the point so that you will have an opportunity in the course of the hearings and the creation of a legislative record to give us assurance.

Mr. FIELDS. Do you have specifics where you may not have the jurisdictional authority?

Mr. HUNDT. I'm not sure it's a question of jurisdictional authority. It's a question of the meaning of the specific words that are in the bill.

The checklist scheme is a new concept. I don't think that it has any particular precedent that I know of; and I think we should all

recognize that legions of lawyers will subsequently come in and tell the FCC what it means, and other legions will tell us that they are wrong.

Mr. FIELDS. Let me encourage you, as I did with Secretary Irving and Assistant Attorney General Bingaman, that any suggestions you have we would really appreciate those suggestions prior to this weekend. We're going to be evaluating a number of suggestions from a number of different parties. This is an open process.

Also, in your statement on page 4, you talk about confronting unnecessary or duplicative regulations that increase cost and hinder development of fully competitive markets and telecommunication services. And you say that's a fundamental aspect of the Commission's responsibilities.

On page 58 of our bill in Section 229, we have a mandatory forbearance section that sets out some specific determinations that the Commission can make, by which regulations can come under the forbearance.

The general question is, does this help you in confronting those unnecessary and duplicative regulations that you testify about?

Mr. HUNDT. This is a very, very good provision. What your bill is doing here, Mr. Chairman, is dealing with the judicial decision that says that the FCC does not under the 1934 Communications Act have the power to stop asking for tariffs. You have correctly perceived that, while the court may be correctly interpreting the 1934 Act, it is one of the examples of how the 1934 Act is broken and needs fixing.

Mr. FIELDS. Of course, we would appreciate any other specifics that you think—regulations that could come under this that would actually help in promoting competition.

Let me go to the point now—the panel prior to your testimony—one of the main thrusts was the need for Justice Department involvement. What we have done in drafting is to attempt to come up with a model that opens the loop. We've tried to be as specific as possible. We have created time frames and a procedure, and in reading the legislation and also in the drafting phase, we've done everything possible to make you the ultimate traffic cop. In essence, verifying the certification that comes from the State, that the loop is open.

Do you see a need for a further backstop? Do you feel you're not capable of making the decision that the loop is actually open?

Mr. HUNDT. I feel that whatever agency of government receives these delegated duties needs to recognize that they are very grave and very serious duties. These are very complex issues. It is necessary to do market analysis to perform the duties that the statute does specifically give—in this case to the FCC.

That means you will need—we will need economists, antitrust lawyers, statisticians, industry analysts, top quality lawyers. It is not a question of hiring any infinite number of them, it is a question of recognizing the reality that literally thousands of lawyers will be employed by the private sector to litigate every word of your bill. That is an inevitability, and we are going to need to be beefed up in order to deal with that.

But we also are going to need, at the agency, to recognize that you have asked us to meet very strict time frames, and that we have a duty to you to do that. We will meet those deadlines.

Mr. FIELDS. I'm going to impose the same time restraints I have on the other members, but I would like for you to respond in writing as to why you would need antitrust attorneys. The answer you just gave—because it appears to us that most of these are questions of fact.

[Responses appear at pg. 360.]

I'll now recognize the gentleman from Pennsylvania, Mr. Klink.

Mr. KLINK. Thank you, Mr. Chairman.

Mr. Hundt, first of all, kind of going down—I apologize for getting back a little late from the last vote, if you've already answered this.

I know that you were here this morning when we were having the discussion with the previous panel in regard to the Department of Justice involvement in this. If I could just ask you—and even if you take my 5 minutes, go ahead. Because what I am interested in is your position on what you heard testified to today by the Assistant Secretary and the Assistant Attorney General, in regard to the DOJ dual role with the FCC.

Did that make sense to you? Does it not make sense to you? Where do you come down on that? I notice you said that you were an antitrust lawyer, so you bring that perspective to it also.

Mr. HUNDT. Well I have enormous respect for the Department of Justice for the Antitrust Division, and for Assistant Attorney General Bingaman. Essentially the role that Assistant Attorney General Bingaman was describing was the role of analyzing the markets.

This is, as I understand her, in the context of the checklist, the question of analyzing the markets as the checklist verification will describe them. She is, as I understand it, saying that the Department of Justice is very well equipped and well qualified to perform some of the role that you are delegating here to the FCC.

The point I would make is, the role does not go away. Whatever agency is put in, whether it's the FCC or the Department of Justice, the role does not go away.

To anticipate a little bit, the letter I will be sending to Chairman Fields, that's what antitrust lawyers do. You analyze markets, you see whether or not people are adhering to and complying with fair rules of competition; and the important point here to make is that competition is not a state of grace, once achieved, which is forever maintained; competition is always a struggle by its own terms.

In competition, the purpose of every competitor is to become a winner, which means to become a monopolist. It is a constant paradox in competition that it is always driving toward—if there is a really big winner—ultimately a monopoly.

That is why there is the notion in this bill that fair rules of competition will be set up, and will be continuously in force. The bill specifically provides opportunities for people who feel that after entry, if there is a violation of those rules, that they will be able to come in and file complaints.

To anticipate a little bit the letter I will send you, that is the kind of work that I did for 20 years as an antitrust lawyer; and

that is the kind of work that this bill would give to the FCC. It could—you could elect to do it with the Department of Justice. I don't think that we're ill-equipped to handle this role. I certainly don't think that they're ill-equipped to handle it.

Mr. KLINK. Is there territorial parity now?

Mr. HUNDT. The problem is the fact that the role doesn't go away, no matter what. Sorry, sir.

Mr. KLINK. That's all right. I hate to interrupt you, but is there territorial parity? I mean, do you—would prides be hurt? Is there an idea that you'd like to keep this power in the FCC for any particular reason? Or, is it something that you would feel comfortable allowing the Department of Justice do, and let the FCC do the things that the FCC is doing and has done so well?

Mr. HUNDT. If I may say so—and I think Assistant Attorney General Bingaman would agree with me on this—this legislation and the duties that it confers of a delegated character are just too important to in any way be reduced to turf battles between agencies. Neither Assistant Attorney General Bingaman, nor I, plan on making lifetime careers at these agencies.

The debate ought to be about where the right place to put these responsibilities is, considering the separation of powers. For example, do you want these responsibilities in an independent commission that is subject to congressional oversight? Would you rather have them in the Executive Branch, where the Department of Justice has a rather different role, vis-a-vis congressional oversight?

I would suggest to you that it is an appropriate area of debate and reasonable people could differ, but it shouldn't be about turf battles.

Mr. KLINK. You also—if I could shift gears just for a second here with what time I may have remaining. You were also talking in your testimony about wanting to get the information superhighway—for lack of a better term—into all the schools.

Mr. HUNDT. Yes sir.

Mr. KLINK. How would you envision—you also talked about incentives to build wireless into the schools—how would you envision this being paid for? Is this something that you would like to see the taxpayers of this great Nation foot the bill for? Or, is it something you would like to see as a responsibility of some of those who acquire great new markets? Where does this fall in?

Mr. HUNDT. Excellent, important question. For 61 years since the 1934 Communications Act, and even before then, it has been the policy of this country to recognize that it is better for everybody, if we have techniques to make sure that virtually everybody can have affordable access to communications.

That is why we have 93 percent of our country with telephone service today. That is not driven exclusively by competition. In fact, it is hardly driven at all by competition, since local telephone service for residential users is essentially not in a competitive condition today.

It is the Universal Service Fund that makes sure for a particularly high cost to consumers, for the poor, for the aged, there are techniques for them to have their telephone bill reduced to an affordable rate so that they can have telephone service.

But we have had a huge oversight in this country. We have done nothing to put even humble telephone lines into our education community. Ninety percent of our classrooms don't have a telephone line. The teacher can't call for advice. The teacher can't call for help.

Now, this is totally inconsistent with our goal of having everybody participate in the networks. Fortunately, the bill gives us the mandate to make sure that we don't leave out the education community. The bill does do that.

Mr. KLINK. I yield back. I still didn't hear who pays. I'm sorry if I missed that.

Mr. HUNDT. The Universal Service Fund is a pool of money which is drawn in large part from access charges, and then it is redelegated to the needy, in essence, so that the networks can be extended. That's the technique.

Mr. KLINK. I yield back, Mr. Chairman. Thank you.

Mr. FIELDS. I thank the gentleman.

The vice chairman of the subcommittee, Mr. Oxley of Ohio.

Mr. OXLEY. Thank you, Mr. Chairman.

Chairman Hundt, you notice in Communications Daily, for example, today it was announced "MCI and News Corporation have formed a global venture up to $2 billion." This follows in the path of the agreement that Disney and Ameritech, Bell South and others—and the ability of Sprint—to try to attract the capital through investments from French Telecomm and Deutsche Telecomm which I think all of us agree, ultimately for American companies, the search for capital to be able to build out, and to be able to provide the kind of competitive services that the public is demanding.

I think all of us would applaud those efforts and think they are clearly in the best interest of the consumer to do that, to give him more choices. But the key to it is to attract capital.

The reason I raise this, as you know, the whole attention on 310(b) and our efforts to try to repeal 310(b), as you know, in an act that was passed back in 1911 during the first World War. I'm interested in your views.

First of all, if Section 310(b) is repealed and the foreign ownership is determined in the market access approach, in your estimation, who would make that determination? Would it be USTR or the FCC?

Mr. HUNDT. If we had an effective market access test?

Mr. OXLEY. Yes.

Mr. HUNDT. Instead of an absolute cap?

Of course, as you know, Congressman, you're harkening back to the excellent hearing that you held on this subject before in which various representatives of these agencies danced around that question.

I think, again, that's a policy call. I would defer to your judgment. I think the FCC is perfectly capable of doing that. I do think that, as Chairman Fields mentioned, we sometimes have, and we do have at this time, a GATT process, which is a multilateral process.

We need to provide for a multilateral agreement to override any particular bilateral investigation, which is what you would be doing

if you were looking at effective market access in the context of a single transaction.

So, I think you should have market access investigation in the single transaction, and the FCC would be highly competent to do that, if we continue to have the resources. But, if you have a bilateral negotiation, clearly that should be able to override. That's why USTR is mentioned in this context, because they are in charge of those bilateral negotiations.

Mr. OXLEY. Well, as you know, the European Union has determined that the telecommunications facilities in those member countries be liberalized by January 1998. So it does appear—and the Germans were here just a month ago to announce the liberalization of their Deutsche Telecomm, which was an encouraging possibility. Obviously, our efforts to try to keep in step with the British, now the Germans, and ultimately the rest of the European Union in that regard.

In your testimony, your written testimony, on 310(b) you don't mention broadcast. Do you distinguish between broadcast and telecommunications with respect to that section? If so, how would you distinguish?

Mr. HUNDT. I don't make an absolute distinction in my testimony, and as I testified in front of your committee, I don't perceive it as necessary to make an absolute distinction. That is because I think that over the next few years it is going to be very, very difficult to perceive strict confines between these industries.

You mentioned in your earlier question transactions that already are showing the crossing of lines, and the kind of muddling of classification. I do think that in mending the public interest examination, and including in the effect of market access, it would be appropriate to permit—if it were the FCC—the FCC to have the opportunity to examine general public interest issues with respect to broadcasters, when the acquisition comes from abroad.

In your hearing, I can't remember which congressman mentioned it, but someone raised the hypothetical of a potential acquisition from a hostile country. Well, if you have the public interest standard, generally, still in the law, you obviously could rule against that kind of transaction.

Mr. OXLEY. Thank you. Thank you, Mr. Chairman.

Mr. FIELDS. The Chair recognizes the gentleman from Illinois, Mr. Rush.

Mr. RUSH. Thank you, Mr. Chairman.

Chairman Hundt, I also welcome you here to this committee and I wish when you get back to your office if you would pass on my best regards to Commissioner Barrett, a lifelong friend of mine from Chicago.

Mr. HUNDT. I will do that.

Mr. RUSH. Yesterday I asked one of the members of our long distance industry if access for our Nation's classrooms should be a core principal of universal service, and should the Federal Government have a role in promoting access to telecommunications technology to our Nation's classrooms.

The answer was something—and I'm going to paraphrase this—because their industry is so heavily regulated, and must operate in a competitive market, it is not the place of government to also

mandate upon these companies, "social policies." What are your thoughts on this subject?

Mr. HUNDT. Well, I don't think it's reasonable to say to any particular company or any particular industry, "You would have the duty, all by yourself, to deliver communications technology to classrooms and you don't get paid for it."

You haven't suggested that. The bill doesn't suggest that. I wouldn't suggest that. I do think it's reasonable to say to our entire telecommunications sector, you're giving an awful lot to the country by your commercial activities, but in addition, we would like to arrange a scheme where you will be able to tap into a pool so that you can, at a particularly low price, extend communications technology into the classrooms.

Now, we know this, if just pursuing commercial ends, all by itself, were to get communications technology into the classrooms, it already would have happened. But not only has it not happened, but there is no place in the United States where it is more difficult to get access to communications than in any classroom in the country.

We have to solve this problem. We are plenty rich enough to solve it. We would be too poor in spirit if we were not to take this on. Now, it can't burden just one industry or one company, but it can be a fair burden shared by everybody, and they can be compensated with the universal service techniques that have worked for us for decades.

Mr. RUSH. Do you see any deficiencies in the bill as it's currently drafted? If you do, what kind of remedies would you suggest?

Mr. HUNDT. Well, if I can, I'd like to—on this subject—take advantage of the chairman's request and give you something—if we have anything—in writing tomorrow, if I could do that.

Mr. RUSH. Thank you. Mr. Chairman, I yield back the balance of my time.

Mr. FIELDS. I thank the gentleman for yielding back.

The gentleman from Ohio, Mr. Gillmor.

Mr. GILLMOR. Thank you very much, Mr. Chairman.

Let me follow up a little bit on this line of questioning. I think the problem clearly isn't that the technological ability is not available to the schools, but rather it's a matter of money. In fact, in probably thousands of schools across this country, it's being poorly utilized.

I want to follow up on the aspect of how you pay for it. Let me just pose a hypothetical example. In a sense, this new information technology is the new textbooks.

We have not said in the past, whether it's been school textbooks or lab equipment, that they should be paid for by the publishers of textbooks or the makers of lab equipment. We've said that this is an educational function and the schools and taxpayers in those districts should pay for these services, which they can do now with the new technological capabilities we have.

Is it your position that we ought to reverse that long-held view of education and say it's now a Federal responsibility to provide that? If so, I really didn't get an answer to the question that was asked earlier, but how are you going to pay for it? How much is it?

Mr. HUNDT. The education function, virtually everywhere in this country, as I hardly need to say, is a government function.

Mr. GILLMOR. But it's 94 percent State and local government function; and it's a 6 percent Federal Government function which—I don't want to get too far afield—incidentally generates half the reports that the education community has to fill out.

Go ahead.

Mr. HUNDT. And I believe that the principal burdens should be and carried at the State and local level, as far as education is concerned.

But I don't think that it is wise to take a school district in Ohio, Illinois or any particular State and say, "Well, you're on your own," when it comes to dealing with communications.

With respect to every consumer in the country, we have arranged a variety of schemes that make sure that they can have affordable access to telephones. That's our universal service scheme. That is why——

Mr. GILLMOR. But having a phone line going into the school doesn't solve the problem. Who's going to pay for the equipment? Are you proposing we do that? I believe this is the peanut share of the cost of dealing with this problem.

Mr. HUNDT. Well, I certainly agree it is not the greater part of the problem of bringing technology into education. It is a smaller part. But I think it is a crucial part.

We have repeatedly found that just getting networks into businesses immediately changes the businesses. They know what to do with computers once they're connected to networks. They know how to talk to each other. They know how to use E-Mail. Congress is doing the same thing. It is changing the way it behaves. It is a terrific revolution.

All I'm saying is that since we have a whole variety of very sensible plans that make sure that communications technology is affordable to every residence in the country, it is a very small but crucial addition to make it available to every teacher in the classroom. We have 2 million teachers in 2 million classrooms. We have almost 200 million telephone lines. We need 1 percent more—just the 1 percent more—to get them into the classrooms.

Mr. GILLMOR. Okay, but you're not proposing anything other than the phone line going in there, which doesn't solve the problem. That's basically your answer, as I understand it.

Mr. HUNDT. The telephone line is a crucial part of this. It is the telephone line, as phone companies now bill them today, that is access to the information highway.

But, I would say to you, congressman, I am also not proposing that the telephone companies be anointed as the exclusive providers in these services. I'd like to see cable and the wireless and telephone companies all compete for the right to be able to provide these kinds of services.

But I think we have to recognize that you need a mixture of local revenue, State revenue, corporate volunteers and PTA activism, and some universal service funds. You put that stew together and it will be bubbling and good for everybody.

Mr. GILLMOR. Thank you.

Mr. HUNDT. Yes, sir.

Mr. SCHAEFER [presiding]. The gentleman's time has expired.

The gentleman from Colorado now will ask a couple questions here. I appreciate the opportunity for you to be here this morning, Mr. Hundt. As you know, we've worked long and hard on trying to piece together a piece of legislation. We've really taken a lot of what we had in last year's bill and then expanded on it a bit, as a number of individuals know in this room.

I would just have to say that I was pleased to see the FCC just last week finally come out with a new ruling and rate relief for small operators—after some 2½ years—of which we have talked about before.

I'd just like to ask the gentleman how he arrived at the 400,000 subscriber number? How was this calculated?

Mr. HUNDT. You're referring to the definition of the——

Mr. SCHAEFER. Yes, for small operators.

Mr. HUNDT.[continuing] operators eligible for moving to the national average technique that Meredith Jones and the Cable Bureau have created here.

I will fully concede that there is a mixture of science and art involved in this. There is no absolutely right place to draw the line. The line is—if you study the size of MSOs in this country—a reasonable break point. There is a huge number of companies on the small side of it. About two-thirds of all companies are below that line, about a third above. On the other hand, about 10 percent of the consumers are below that line.

When you start to go right above that line, you will very greatly change that dynamic. If you add just one or two more companies, you greatly add to the number of consumers. So, when you look at the chart, it looks like a sensible break point. But I couldn't tell you that it shouldn't be a few more or a few less.

Mr. SCHAEFER. The legislation as it is now written, of course, says 1 percent of the subscribers in the country.

Mr. HUNDT. Right.

Mr. SCHAEFER. Which is really about 600,000. So, there's not a lot of difference there between the two. In this particular case, we're going to be taking in again, as you stated, most of the operators—maybe not most of the subscribers, but at least most of the operators.

As you and I have spoken before, major concern has been that these small operators are just going out of business, or selling out, at the detriment in many cases to the consumer, who is out there that they supply.

So, I want to compliment you on finally reaching this particular ruling or regulations that you have finally put out.

Mr. HUNDT. If I could—thank you very much. Cable brings so few compliments to the agency. It's always nice to collect them when they're available.

The break point that you have suggested, congressman, would take us from approximately 66 percent—which is our break point—to 71 percent of operators. It would take the number of subs from 10 percent to 31 percent.

So, that's what I meant by saying, as you go above our ceiling, you greatly add on the sub side, but you don't get that many addi-

tions on the number of operator side. But, I will concede to you, this is a judgment call.

Mr. SCHAEFER. Well, we've hassled with this for quite a while, trying to come up with a correct—talking with small operators and everything else—to come up with a correct percentage that we can deal with.

Now, according to your figures, less than .03 percent, that's three one-hundredths of 1 percent of cable subscribers have actually filed a complaint against their cable company at the FCC since September 1993. Now, because of the one-complaint threshold, which we have talked about and which I have a lot of concerns with, the FCC has to investigate some 4,000 cable systems creating a backlog of cases which has taken you on an average—until at least last September—to finally come up with a solution.

Now, of these complaints that you looked at, you found in favor of the operator—the operator—about 97 percent of the time. Now, would you agree or disagree that there is little consumer benefit out of this single complaint and that maybe we ought to look at a different complaint structure?

Mr. HUNDT. I do think you should feel free to look at a different complaint structure, but I would not agree that the current complaint structure generates little consumer benefit.

The current complaint structure is the chief enforcement technique. It is, in my judgment, the case that most operators—the overwhelming majority of operators—comply with the rate regulation without the need for complaints; but that is in part because only one complaint is necessary to trigger the process, and consequently, they are greatly motivated to comply anyhow.

Now, I would say, congressman, that the bill in this area does give me a little bit of concern, because of its differential results. The bill says that the number of complaints to trigger a process are either 10—I think, or 5 percent—whichever is greater.

What this would mean is that if you by chance happen to live in New York, in order to register a complaint, you would have to have 50,000 people because you're in a 1 million subsystem, whereas, if you happened to live somewhere where there were only 200 subscribers, then you'd only have to find 10 people to file a complaint.

But, from the consumer perspective, I would think that there's no particular reason for you to have to find 50,000 people in New York and only 10 people in a small town. From your perspective, the situation is that you'd feel that you've been wronged.

A cure of this—a partial cure of this, if I might be so bold—would be to allow a local franchising authority to trigger the complaint process, which the bill I think does not do.

Mr. SCHAEFER. So—but, if we're looking at 5 percent, we know we have a bad actor, when we have a problem with this many people filing a complaint about it. But that also means that 95 percent of the people are happy.

Mr. HUNDT. Well, if you're in a very small town and there's only a couple hundred people, 5 percent becomes a very, very small number. So, in that case, actually you tilt, I think, too much in favor of the small number of complainants. You would, I would

think, rather have the local franchising authority have the responsibility for triggering the complaint.

But I just don't quite see the equity between dividing between those consumers who happen to be consumers of big companies, and those who happen to be consumers of small companies.

Mr. SCHAEFER. Well, I think a lot of these people sitting up here at this table, including myself, would be very happy to have 95 percent of the people liking us.

If indeed we are a bit off base on this, let me ask you this question? Do you think in your own mind that one single complaint from a franchise that has 400,000 or 50,000 hookups is justifiable to basically put a hold on a cable operator?

Mr. HUNDT. As I read the 1992 bill, the purpose of the one-complaint trigger was to create a substantial deterrent so that virtually everyone in the industry would comply, regardless of the possibility of complaints, because the trigger is so sensitive.

Mr. SCHAEFER. One complaint, I mean, can be anything or anybody. We even had cases where a professor in a school had his students write complaints to see how the system worked. Therefore, what did it do? It basically held neutral a cable operator.

So, all I'm saying is, there's got to be some other ground out there that we can plow on this one and figure out another way by which to institute this.

I think my time has expired. I didn't have my light on here. We will recognize the gentleman from Massachusetts.

Mr. MARKEY. Thank you.

Welcome, Mr. Chairman. You run an agency with roughly 2,000 employees that basically oversee about one-eighth of the American economy. This bill includes a list of checklist items that have to be put on the books in order to protect smaller companies as they're trying to get into the local telephone business loop, amongst other things.

Do you have enough personnel to get this done in 2 years?

Mr. HUNDT. With respect to the checklist subject, I would say that we have substantially less than 200 people who have the skills set and the positions in the agency to address the checklist issues. That's a very, very small number. They will be out numbered by industry litigants and lobbyists by a factor of, who knows, a hundred to one. I think it's a very serious concern.

Mr. MARKEY. Okay. Now, on the issue that—related to the issue that the gentleman from Colorado was raising—well, under the standards of the bill as it exists today, you would have to have upwards of 5 percent of the subscribers complaining in New York City. That would be, perhaps, 50,000 people.

If 50,000 people sign a petition complaining about their cable rates, they probably wouldn't be calling you a bad actor, there would probably be other words they'd be using and probably representing a much larger constituency that would be angry. I don't think we have to reach that level to know that there's a problem.

On the issue of uniform pricing, in the legislation as it's presently drafted, there's a provision that narrows the application of so-called uniform pricing. My concern about it is this, Mr. Chairman. My fear is that whenever a cable company would see a satellite dish, a DBS dish, an 18-inch dish, they'd go right to that person

and say, "Well, in apartment one through 100 they're going to keep the same cable price. But for you, sir, we're going to give you a $50 discount if you will dump that DBS dish, and for you you're not going to have the same price as everybody else."

That would essentially allow these large cable companies to strangle this DBS industry in its crib, as it's just growing, if they were allowed to go in and do that kind of predatory pricing.

Could you give me your views on that issue and how you think we should deal with it?

Mr. HUNDT. I think the uniform pricing changes that are suggested, I'm sorry to say, very much tend to strengthen the cable monopolies at the expense of their competitors.

The marketing practices that would be permitted by this proposed change in the law, I think we would have to say would be directed very specifically at DBS, MMDS and Cable Overbuilders. They would all be instances where the huge market share that most cable companies currently have could in fact be extended by discriminatory pricing.

Discriminatory pricing sometimes is good for consumers. But when there's a large incumbent monopolist that can engage in discriminatory pricing, then it is an anticompetitive technique and we do not now have enough competition in video programming to allow that, if we really want to get more competition.

Mr. MARKEY. I share your concerns and I hope we can work something out on that to make sure that this DBS industry is not made vulnerable by that predatory pricing practice.

You know, most of the members of this committee voted for GATT and for NAFTA, I amongst them. There's kind of a deal there that's struck. America lets the low-end jobs go as we tie in the high-end jobs that require better skills with the technologies related to the industries that you oversee.

In this bill we have a universal service provision that tries to achieve the goal of getting these computer technologies into every classroom in America. Do you have any recommendations to us with regard to how we insure that every kid, regardless of what income background they come from, has access to the technologies that gives them and their families a sense that they can compete for jobs in this modern 21st century economy that we're already living in?

Mr. HUNDT. We know how to fairly accomplish incentives that build communications networks to rural America, to poor people. We have a number of tried-and-true techniques, such as relay service, that make communications technology available to the disabled. We need to use those tested, proven, workable techniques and just give a different goal, which is the goal of making sure communications technology can reach the education community, and reach the next generation.

I think that specificity is what is wanted here in terms of the legislative mandate; and if we have any specific worries—and I think we do—we will be giving them to the chairman as he requested earlier by tomorrow.

Mr. MARKEY. I do think it's very important for us to continue to focus upon the necessity of insuring that every child—increasingly that child has access to a handgun in their school yard, in their

neighborhood at age 10, 11 and 12. We have to have the competing technology in the classroom that the child can use. Right now, only 5 percent of all classrooms in our country are wired for this technology.

Unless we deal with that disparity, the mother just won't have—the father won't have the competing technology to challenge that handgun as an alternative means of dealing with the society that gives them little hope. We give them hope by putting this in the classroom, and also giving them access at home at reasonable rates.

I thank you for your efforts in that direction.

Mr. OXLEY [presiding]. The gentleman from Florida, Mr. Stearns.

Mr. STEARNS. Thank you, Mr. Chairman, and I just want to welcome my good friend from the FCC, Mr. Hundt. I think everybody up here feels you're very forthright and able, so we're glad you took of your time to come here.

We've probably been talking about our telecommunications bill, but I'd also like to ask for your comments on H.R. 1556, which is dealing with broadcast ownership reform. Maybe you could specifically give us your opinion in this area, to repeal or modify the broadcast cable or network cable ownership restrictions; and then I have another follow-on question.

Mr. HUNDT. I think that it's certainly high time to layout a blueprint vis-a-vis media ownership that is appropriate for the digital age. I think that, for example, when we do roll out the digital spectrum, and if as this bill suggests, broadcasters have the ability to deliver in Washington, DC 40, 50 or 60 different signals, then it will be very fit, right and proper to reexamine the ownership restrictions and make sure that what we are applying is a good antitrust paradigm.

You should not be able to buy so many of the signals that you can dominate the market. We should have competitive markets, but we don't need to have arbitrary restrictions such as only one network per city.

I do think, though, congressman that it's very important that we all recognize that TV markets on a local basis are very different city-to-city. I don't have to tell the members of this committee. I'm sure that they know and can compare notes. In some cases, there are 10, 12 stations in a market. For a city like that to have two of those stations owned by one network doesn't seem to raise any anticompetitive risks.

Mr. STEARNS. Specifically, in the bill 1556, do you have objection with the 35 percent ownership at the date of enactment of the law, and then a year later going to 50, and then the FCC at the end of 2 years going ahead and—I mean, would you endorse that today? Would you say that that is an acceptable proposal?

Mr. HUNDT. Well, the national ownership cap going up, as you know, congressman is something that we suggested at the FCC. I can't, as a matter of law, prejudge our ruling there, but I can tell you what we suggested there, and what's in this bill are pretty much the same thing.

Mr. STEARNS. I take that as endorsement. It's close enough. What about broadcast newspaper restrictions, national local TV ownerships? This whole mass communications is sort of one line in

this bill that everybody just sort of glosses over, but it means of course, deregulation of ownership for publications, newspaper publications, radio and everything.

Do you agree? Could you give that same kind of indirect answer that you just gave on the other one?

Mr. HUNDT. I think the lines between these different industries definitely are blurring. Your bill foresees that those blurrings will become inevitable and that we won't be able to perceive lines.

I don't disagree with that, but I do very much think that it is important to have government continue to have the power to watch out for and protect against many monopolies on a city-by-city, market-by-market basis.

If you're in a town where there's only one newspaper and one cable company and four TV stations, I don't think we should have just one or two firms own all of those outlets. I think that would be anticompetitive. But, if you're in a town with two newspapers, a cable company and 14, 15 TV stations, the competitive circumstances would be different there.

So, I very much hold to the notion that markets should be judged on their own individual facts, and that good antitrust policy, which the FCC tries to follow, should be able to be implemented on a market-by-market basis.

Mr. STEARNS. Well, in this bill that we have, we do specify that you have the authority under those circumstances to see if competition is being fulfilled. Do you feel under this bill, this 1556, that you will have sufficient language so that you could protect the local markets from being dominated by one corporation?

Mr. HUNDT. I do have some suggestions that I'd like to give you, if I could be so bold, in writing——

[The responses appear at pg. 360.]

Mr. STEARNS. That would be excellent.

Mr. HUNDT. [continuing] that would permit me to say, yes, to your question.

Mr. STEARNS. Well, Mr. Chairman, I think—and I also said that to my good friend from Massachusetts, Mr. Markey, that we have got sort of an endorsement by Mr. Hundt for our amendment dealing with broadcast ownership, sort of an indirect. We have played off what he has requested. He seems to be pretty happy, as well as dealing with mass communications. So, with his input, perhaps we can get a bipartisan bill here.

Thank you, Mr. Chairman. I yield back the balance of my time.

Mr. FIELDS. Thank you very much.

The gentlelady from California, Ms. Eshoo.

Ms. ESHOO. Thank you, Mr. Chairman.

Good afternoon, Chairman Hundt. It's good to see you and thank you for being here today.

First of all, I applaud your efforts about the issue you brought forward some time ago, and I hope that that dream comes true about connecting our schools. I think if there is any way to boast about America being prepared for a new century, it would be that we would form policies that would actually make that a reality.

So, I want to thank you for your leadership on that; and acknowledge some of the views here at the committee and hope that it will become a reality.

I wrote to you recently about an issue, and I know that you know that I'm concerned about it. That's the issue of interoperability and what the FCC views its role to be in establishing an information network on which equipment and applications can connect and communicate with ease.

What are your views on this issue, particularly with respect to set top boxes in homes across America? Do you believe that the language in the bill that we are shaping is appropriate?

Mr. HUNDT. Thank you very much, congresswoman, for your remarks and for your interest in the education issue.

I think that the core principle of interoperability is another way of saying that consumers should have the power to choose among competitors, that they should not find themselves confronting a bottleneck anywhere in the communications pipeline. If they're looking at a TV set or a computer screen, it ought to give them choice of whatever long distance company, of whatever software, or of whatever TV show that might come down that appliance.

The core principle of interoperability is the only way to make sure that the policy of competition that this whole committee is endorsing, actually, ultimately will be meaningful for the consumer. I am concerned—as we all should be concerned—that it is so hard for us to look around the corner here and see where the potential issues really rely.

The industries are certainly doing that. But I don't believe that it is a question that should be exclusively left to industry, because the public interest needs to be represented here. I very much commend the bill for making it clear that the principle of interoperability ought to be enshrined in law.

I will have some modest suggestions about changes in the language in this area; but you do have the principle in this bill, although I think it possibly should be tweaked a little bit.

Ms. ESHOO. Let me follow up by asking you, should people not be able to—shouldn't they also be able to choose among standards in terms of who's offering what?

Mr. HUNDT. That's a very, very hard question. Sometimes standards are pro-competitive. Sometimes standards are anticompetitive.

A core issue is whether a standard is set by a monopolist. That often means that it is not a standard in aid of competition, but may be a standard that's created precisely to preclude competitors. Another issue is whether a standard that is adopted by an industry is one as to which there are proprietary rights so that no one else can share the standard.

I cannot, I'm sorry to say, give you a particularly easier, straightforward answer, because this is such a complex problem. That is precisely why I have the view that the public interest in interoperability should be enshrined in law, and that the agencies of the government such as the FCC and the Department of Justice should be able to constantly make sure that industry standards—whether they're de facto or set by industry consortium—are not used anticompetitively.

Ms. ESHOO. Wouldn't it be more prudent to help shape those so that the competitors would know what the rules of the game are and then operate that way for the best interest of—not only competition, but what competition is really good for—the consumer.

If we fail to reach that standard, then we will have failed. But, wouldn't it be more prudent to do it that way?

Mr. HUNDT. I tend to think that the key is to give delegated power to an agency such as the FCC. As a rule, it would be better if the government did not have to select the standard.

For example, in PCS, we did not select a transmission standard. We think that the competitors should fight it out. On the other hand, with respect to the digital broadcast of TV signals, I think we will authorize the standard, because it will be pro-competitive to have a common standard.

There just is never going to be only one way to do this. It's going to be case-by-case, issue-by-issue problem, and our agency should have the ability to follow the law that you lay out and apply it to the different facts of different emerging industries.

Ms. ESHOO. Thank you.

Thank you, Mr. Chairman.

Mr. FIELDS. I thank the gentlelady for yielding back.

The gentleman from Washington State, Mr. White

Mr. WHITE. Thank you, Mr. Chairman and welcome, Mr. Hundt.

I'd actually like to follow up on some of the excellent questions asked by my colleague from California on the question of interoperability. Let me just make sure I understand what you're saying.

You said that you thought the principle of interoperability should be enshrined in law. What did you mean by that?

Mr. HUNDT. You know, interoperability can mean many different things. Let's suppose that the question is the picture that's presented on your TV screen of the future, the TV that combines a computer and that gives you access to either broadcast TV, cable or on-line services or the Internet.

Now, suppose that picture were generated by software that was provided exclusively by one company in the marketplace. Suppose that one company were to say, "Well, we are picking the number of services that will be carried on the picture, and we've decided for example that if you buy our software, which happens to have"—and I'm making this up—"a 90 percent market share, you can't subscribe to any long distance company except the one we provide you."

That would be—although it's a cartoon version—an example of how the consumer was denied choice.

Mr. WHITE. I understand, but I guess I was asking you a little bit more specific question. Do you think the principle of interoperability ought to be enshrined in the law, and you have some discretion or ability to administer that, what kind of ability are you looking for? What are you going to have in there that you think your commission should be doing?

Mr. HUNDT. A specific mandate to order that standards be open when, in fact, the absence of that order would lead to anticompetitive situations and the exercise of monopoly power.

Mr. WHITE. Okay, so in other words, you'd like to have something that says you can review the standards that the government—that the industry adopts, and that if in your judgment, you think they're anticompetitive, you can come in and change things. Is that essentially what you have in mind?

Mr. HUNDT. That would be part of it. That would be one option.

Mr. WHITE. What else would you like to have?

Mr. HUNDT. Well, I think that you might be able—and I think that Congressman Eshoo suggested this—you might be able to empanel industry groups, give them the mandate to develop standards that are open, not have the government pick the standard, but establish the principle that those industry groups would develop open standards. That would be another way to address the same problem.

Mr. WHITE. I mean, you know, as I understand it—and I think you're probably in agreement with me—the principle of interoperability really is a software problem. It's a question of how the software is going to allow all these various elements on the network to work together.

You wouldn't take the position, would you, that there is a lack of choice in the software industry itself now? I mean, you wouldn't say that there's a lack of consumer choices now in the software industry, as opposed to the telecommunications industry, would you?

Mr. HUNDT. That is a very general question and with great respect I have—by no means consider myself to be sufficiently expert to give you an answer. I can tell you that I don't go a week without hearing from some computer company, and everyone says, there's plenty of competition. The next one comes in and says, they're just about to be driven out by a monopolist.

So, I hear lots of different views.

Mr. WHITE. Let me make it a little bit more specific.

Let's say that you had the same sort of choice available in the telecommunications industry in the future that you have in the software industry now. Would you intervene in that situation and try to make it more competitive, or would you be satisfied with the sort of choices that are available to consumers?

Mr. HUNDT. I'm simply not now sufficiently versed in the software markets of this country, with their many different operating application features to give you an answer that's worthy of being put on this record; but I will say in general what I think you already know, which is that, all competitive markets run the risk of devolving into monopolized markets. All monopolized markets can, with fair rules of competition, be broken up by new competitors.

These are always fluid situations. All I'm saying is that I commend the bill for establishing the principle of interoperability and recognizing that it will have different applications in different years to different markets.

Mr. WHITE. There really isn't any question, is there Mr. Hundt, that we've got one of the most competitive software markets around. The choices have been evolving year-by-year.

If you buy a programmed software application this year, it's going to be obsolete next year. Is there really any question whatsoever that we have a highly competitive, very pro-consumer market in software?

Mr. HUNDT. If you restate the question, congressman, with slightly more narrow confines, you—as I think you know—are going to run into very serious debate. If you ask the question about financial application packages, you will be talking about a lawsuit that's just been filed to debate this very question.

Mr. WHITE. Sure, okay. Thank you very much.

Mr. FIELDS. I thank the gentleman for yielding his time back.

The Chair now recognizes the gentleman from Virginia, Mr. Boucher.

Mr. BOUCHER. Thank you very much, Mr. Chairman and Mr. Hundt, welcome again to this subcommittee. We're always pleased to have you before us. We learn a great deal from the information that you provide. Today is certainly no exception.

I'd like to ask you about an issue that is not squarely addressed in our legislation, but which will be coming before the FCC in the not-too-distant future, concerning the desire of broadcasters to make a transition from their analog system of delivery today to a digital system of delivery.

In order to do that, it is necessary that there be a means of transition. That means of transition, in all likelihood, will be the award of a second, six-megahertz of frequency by the FCC to broadcasters for the purpose of making that transition.

They would then begin broadcasting in digital format on that second six-megahertz, and for a period of years—it's been suggested about 15 years—there would then be a gradual transition of the consumer premise's equipment from analogue television sets to digital television sets. At the end of that 15 years, when the transition is complete, the first six megahertz on which analogue transmission is occurring today and would continue to occur during that 15-year period, would then revert to the public domain and would be available for other uses.

Now, the question is this, what we have anticipated is that broadcasters would use the second six megahertz for digital transmission, but there's a great deal of doubt about what that digital transmission will be. A great deal of time and effort has been invested by what is known as the grand alliance of companies in developing a standard for high-definition television.

But there is no real assurance that broadcasters, if they have total freedom of choice, will elect to make the investment in equipment necessary to deliver HDTV quality signals. In fact, a number of broadcasters have suggested that they in fact would prefer to deliver a multiplex of signals over the additional six megahertz that could be lower quality—or lower standard than HDTV, which itself is about 1,100 lines of resolution. A lower quality digital signal be 500 or 600 lines of resolution.

In the legislation that we have considered today, we have referred to this new era in television as advanced television services. But we're basically leaving it to the FCC, in these early drafts, to make a decision as to what advance television services will mean. Will that be the higher quality resolution of high definition television? Or, will it be something less, along the lines of preference many broadcasters have expressed?

I wonder if you're prepared today to give us some indication of the direction that the FCC intends to go in determining what advanced television services will mean? Will the public get the benefit of HDTV, or will the public simply get the benefit of a lower quality digital service?

Mr. HUNDT. This is a huge topic, as you know, congressman. It's about the end of TV as we know it and the beginning of a poten-

tially different product, including everything that we know from TV today and a heck of a lot more.

I, of course, can't speak for the Commission, and I want to qualify my remarks by saying that I don't want to prejudge any of the rulemakings that will be involved in this process. I would like to respond, if I could, by just sharing with you such precepts that I currently have rattling around in my head on this subject.

Mr. BOUCHER. That's fine.

Mr. HUNDT. And, with a lot of caveats, go from there.

First of all, I think it's crucial that broadcasters have an opportunity to acquire a new spectrum so they can broadcast digitally. That is going to be essential, in my judgment, for them to be able to compete with the rest of the digital world, and that's everybody—digital DBS, and digital cable, and digital IMTS and digital dial tone.

Everyone's going digital. Receivers are going to be made digitally. Digital TVs will be spreading across this country starting in the beginning of 1997. That's what everyone tells me and they're probably right. Broadcasters need to be able to transmit to the digital receivers of the future, and they'll need spectrum to do that.

Second, we should take them up on their oft-stated willingness to turn off the transmitters of the analogue era that they currently have, and to abandon that analogue spectrum. It's of enormous benefit to this country to get back that spectrum, to repackage it, to run clear channels across the country, and to auction it for fair value to incentivize new industries.

But, if you're going to ask them to give up the old spectrum, you need to find some way to compensate them, if you want to be fair, because they paid—not in an auction, but in the private market for that old spectrum. You can either compensate them by giving them money, or by giving them, in essence, as a substitute for cash, something in kind—namely, new spectrum.

So, those are the key principles as I know them, vis-a-vis broadcasters. Next, broadcasters ought to be able to enjoy the benefits of everybody else working to convert consumers to digital. In other words, if cable and satellite companies are going to be encouraging their consumers to convert to digital, let's make sure that all the equipment is compatible so that broadcasters can have the same customers as part of their target audience.

Next, let's focus on the fact that when broadcasters have digital spectrum, if you adhere to free-market principles, they will have the opportunity to deliver many, many different kinds of products, voice, video, data, 75 radio stations for each six megahertz of spectrum; or 5 or 6 different TV signals.

Just as a starting point, congressman, it seems to me that it would be a very difficult burden to demonstrate why the government should constrain the flexible use of that spectrum. It would be a very difficult burden to show why the government should interfere with the market forces that would otherwise dictate how that spectrum should be exploited.

Last, but not least, we shouldn't forget about the consumers who are going to have to spend serious, additional money for this digital conversion. It may be wise to give attention to schemes in which

those who wish to engage in the conversion on the sell side have some burden to bring the consumers along on the buy side.

The United Kingdom has done this, by the way, and I can tell you a little more about it, if you like, later.

Mr. BOUCHER. I thank you for that answer. Let me just ask one brief follow-up question.

If, as you suggest, government does not impose any restraint on the way in which broadcasters utilize the second six megahertz. Given what I discern as a propensity on the part of broadcasters to offer multiple, lower quality digital signals as compared to a single, higher quality, high-definition television signal.

What assurance will there be that all of the time and effort that went into developing the HDTV standard to begin with will produce anything of use?

Mr. HUNDT. Well, the standard is a wonderful standard, because it is flexible. It is a four-layer standard that gives the ability to deliver a string of digital bits that can be used as the individual operator wishes to primarily be devoted to conveying a high-definition picture with eye-popping quality, but also alternatively, to deliver a number of other low-quality, but still—lower-quality, but still beautiful pictures. It can be used to deliver the Washington Post, if anyone would want that, right into the lap-top computer of everybody in this area.

Tremendous flexibility comes from the standard that is being promised us by the end of the year.

Mr. BOUCHER. Well, thank you for the information. It's a subject that I'm sure we will discuss at great length in the future.

Mr. Chairman, thank you for allowing me to take just a couple of additional minutes.

Mr. SCHAEFER [presiding]. The gentleman's time has expired.

Mr. Hundt, I'd like to have your comment on the Federal and State roles in reviewing the checklist to insure that the Bell companies have complied with the openness requirements that they have?

Mr. HUNDT. As I understand the bill, Mr. Chairman, the State role would be to—let me rephrase it.

Each State would have the obligation and the opportunity to verify compliance with the checklist. As I understand the intent of the bill, for example, a regional Bell Operating Company that operated in a number of States would have to obtain the okay from each of the States in which it operates before it could go into the long distance business, at least that's how I read this particular provision.

Then, subsequent to that, the FCC would have a final verification process that is fairly compressed in time, in fact, extremely compressed in time, but that gives us assurance in the nature of review—a substantive review that the compliance process at the State level has been full and fair.

That's what I understand is the process.

Mr. SCHAEFER. So, in your mind, is this a fairly good process? Or, does that have to be changed? Or, do you think this will work?

Mr. HUNDT. I think that it is a workable process. I think we have to recognize that the States, like the Federal Government, have no particular experience in reviewing this checklist. This is a new concept; and I think it is right and proper for the bill to give the FCC

the responsibility to lay out specific rules detailing the meaning of the checklist factors.

As I understand the bill, the concept is that the FCC will do that and therefore all States will have a common definition to apply so that there won't be differential definitions in the different States. If I have that right, I think it's very sensible to have that national policy.

Mr. SCHAEFER. Now, you've had the opportunity to deal with timetables and deadlines in the past, and you mentioned the latest challenge posed by timetables in this particular bill. In your estimation, are they realistic? If not, how much time is really needed?

Mr. HUNDT. Timetables are always a question of resources. If you have people with the right skills, set to go with nothing else on their plates, you can accomplish an awful lot in a big hurry. I think that there is no reason why we can't meet the timetables, but we will have to have the resources and we'll have to be able to devote them to these specific tasks.

That, of course, will lead to our request that some other tasks at the FCC be trimmed down, which I hope we'll be able to discuss with this committee in the next few weeks.

Mr. SCHAEFER. Well, we can move the cable bill over to the Department of Commerce or something like that.

Mr. HUNDT. Do you think they would like to have that over there?

Mr. GILLMOR. That would give you plenty of resources.

Mr. SCHAEFER. Okay, let's see here—I'm going to take about a 10-minute recess. The ranking member had another question, or two, Mr. Chairman. If you would indulge us, we're waiting for him to come back from the vote.

Mr. HUNDT. Sure.

Mr. SCHAEFER. I'd like to allow him to ask a couple more.

Mr. HUNDT. Sure.

[Brief recess.]

Mr. SCHAEFER. The Chair would acknowledge the fact that the ranking member is here now, and even though the 10 minutes has not expired, we're going to allow him to ask his question.

Mr. MARKEY. Thank you. I thank the Chair very much.

Mr. Chairman, just for the record, your silence on the question of whether or not you endorse the Stearns broadcast—deregulatory broadcast provisions and all of its particulars—did not mean that you assented to all the particulars of that amendment, I assume, but I would like to hear your——

Mr. HUNDT. No, I actually meant to convey that I didn't think that the bill as drafted sufficiently addressed the issue of over-concentration in local markets.

Mr. MARKEY. Thank you.

And the other point that I would like to make is on the question of interoperability, and just to lay out, again, where the problems can develop when competitors to these large companies that control the bottleneck decide that they don't want competitors in their field.

So, as you remember, back in the 1970s and the early 1980s, AT&T fought the introduction of Feature Group D so that it would be possible for MCI and Sprint and others not to have to have the

17 digits that their customers would have to dial in order to get into the long distance network, and it was only because of the intervention of the FCC to ensure that that level of blockage was removed that the long distance marketplace was able to open.

Similarly today, if, for example, Pacific Telesis partnered with American Express to provide a new banking service, and Bank of America or some other financial institution wanted to get into the same business, we have to be sure that that partnership between the local telephone company and one financial institution doesn't result in a design of the software that walls out the other competitors that could reach consumers as well.

If, for example, Bell Atlantic purchased Compuserve, we would want to make sure that they didn't design the software in a way that kept out American Online, or a whole range of other competing software provides at the same time. And that is the essential notion here, that it is really not a question of anything other than whether or not the FCC can serve as a backstop to guarantee that proprietary standards are not designed in a way that walls out competition. Is that a fundamentally accurate description of what you view as the problem?

Mr. HUNDT. Your comments are accurate and are very eloquent.

Today, almost 100 percent, maybe 95 percent of all consumers have one-plus dialing. They like it. It gives them choice for long distance; it gives them the opportunity to enjoy the benefits of competition. Now that is the exact same idea that we want to perpetuate as consumer choice becomes more complex and the multimedia offerings come into the market. Consumers are going to be very unhappy with all of us if they are not able easily to exercise the power of choice.

Mr. MARKEY. Thank you.

I thank the chairman very much.

Mr. SCHAEFER [presiding]. The Chair recognizes Mr. Cox.

Mr. COX. Thank you, Mr. Chairman.

In a country with a quarter billion people, the residential telephone penetration rate is 94 percent, so, is that the degree to which we've achieved it?

Mr. HUNDT. That is an example of the deceptiveness of averages. According to our studies, approximately 1 out of 5 of all the people in Camden, New Jersey, do not have affordable telephone service, 13 percent of the Hispanic citizens in Los Angeles County, do not have active telephone service, close to half of all Native Americans in this country do not have active telephone service, nor do children in this country, who live in poverty—which is 25 percent. A huge percentage are in homes where there is not active telephone service.

Mr. COX. Which is consistent, I take it, with 94 percent penetration in a country of a quarter of a billion people?

Mr. HUNDT. It certainly all adds up to the average that you mentioned, although interestingly, last year for the very first time, that percentage dropped by about 0.4 percent.

Mr. COX. If we can agree, generally on that figure—and I agree with you that 6 percent of Americans is a little figure.

Mr. HUNDT. It's actually, I think, 93.8. Because it's down about half a percent from the statistics and that's a very meaningful drop. It's the first drop in decades.

Mr. COX. Now, the penetration for televisions is 97 percent?

Mr. HUNDT. Well, they are free.

Mr. COX. Well, the television sets certainly are not free.

Mr. HUNDT. That's true, but the broadcasting is free.

Mr. COX. I wonder how it is that we ended up getting to 97 percent penetration for television service without a legislative mandate for universal service?

Mr. HUNDT. Well, this is one of those issues of network economics and I do not understand it with expert comprehension myself, but the basic principal is that competition in the private market will extend a network to a certain point; and that point almost always will be somewhere below 90 percent.

If you do nothing at all to provide cross transfers of money, you will never have networks that achieve 95 and 96 percent penetration. It will not happen.

Now, why do you care? It's because there are other benefits of having networks that reach 95 and 96 percent. You have more people who get employed. You have more productivity in the economy. You have more consumption in the economy. That is why it is generally regarded as economically very sensible to create schemes that build networks out past what is called the private optimum to what is called the social optimum.

Mr. COX. We've got a joint board in the bill that's going to be set up, Federal/State joint board, to recommend ways to preserve universal service. The FCC is then going to take those recommendations and put them into regulations; and the whole thing sunsets after 5 years.

Is it your understanding of the bill that the regulations would also sunset after 5 years?

Mr. HUNDT. No. But, I of course, could be corrected by you on this. My interpretation of the bill was that the joint board process was supposed to expire within 5 years, but that the commitment to universal service would continue on under this bill. As I said, I can be corrected if I misread this.

Mr. COX. The regulations would continue well beyond 5 years.

Mr. HUNDT. I hope our commitment to affordable connection to the information highway is never going away.

Mr. COX. Can you imagine a time when government mandated universal service would no longer be needed?

Mr. HUNDT. Competition should make technology—communications technology—cheaper and cheaper and cheaper. As that happens, it should become less and less of a financial burden for anyone to build networks to the so-called social optimum. It should be that the amount of transfer that is necessary can very much diminish.

But it will almost always—as far as anyone can foresee—be necessary to have some transfer of funds from one place to another, if we wish to maintain the commitment to have networks be accessible to everyone.

For example, the use of the networks is changing radically over time. Based on the study that we've done so far, the reason why

people are beginning to drop off of the telephone system is because we have erroneously linked long distance bills to local telephone bills, and in many places, you lose your local telephone service if you have trouble paying your long distance bill. I don't think that's logical. We should change that.

Mr. COX. The answer to the question that I just put, are you of the view, therefore, that government mandated universal service should be in existence for the indefinite future?

Mr. HUNDT. I think publicly desired universal service will continue forever and is a very good idea. And, yes, it will be necessary to find some source of revenue to make that happen.

Mr. COX. Is publicly desired the same as government mandated?

Mr. HUNDT. It should be.

Mr. COX. Okay. Thank you.

Thank you, Mr. Chairman.

Mr. SCHAEFER. The gentleman's time has expired.

The Chair will recognize the gentleman from Washington, Mr. White.

Mr. WHITE. Thank you, Mr. Chairman.

Mr. Hundt, I just wanted to follow up on a couple of question from our discussion before.

As I understand it, your thought in reviewing an interoperability standard would be on a competitive model. You'd really review it based on what the competitiveness in the industry is. Why would we have you do that rather than the Department of Justice?

Now, we had the Department of Justice in here this morning. They want to get into your bailiwick. You want to get into their bailiwick. Why don't you each stay in your own bailiwick and we won't have to worry about it?

Mr. HUNDT. Well, of course, my concern with this issue is only insofar as it relates to our communications systems in this country.

Mr. WHITE. Right.

Mr. HUNDT. I think if the FCC is going to continue to be a repository of expertise vis-a-vis communications networks in this country, it is an agency that has a potential to perform the task that you and I talked about.

Mr. WHITE. Right.

Mr. HUNDT. It is not imperative that it be the FCC. It just happens to be a place where there will be expertise, nor need it be exclusively the FCC.

Mr. WHITE. Okay. In general, I'd kind of operate under theory that if we could have one agency, you know, seeking to do a particular function, that probably would be better. You wouldn't anticipate that you'd be administering the antitrust laws would you? Your thought would be that we'd give you some additional standard in this law that you would then administer? Or, would you look at this from an antitrust law standpoint?

Mr. HUNDT. Antitrust law and competition policy is all the same body of knowledge. That is why 15 U.S. Code, Section 21 specifically gives the FCC authority to implement the antitrust laws with respect to communications. That is why courts have repeatedly held that if the FCC does not consider the antitrust and competition policy, it is subject to reversal.

Mr. WHITE. Okay.

Mr. HUNDT. So, I don't see the issues as separate or combined between the two agencies.

Mr. WHITE. So you're not looking for additional review authority in this bill. You're simply saying that you'd like to continue to have the authority you have under the antitrust laws. Is that a fair statement?

Mr. HUNDT. I'm saying that I actually commend the bill for enshrining the interoperability principle; and I think that applying it in specific cases one will use competition policy as we have always done.

Is that being responsive?

Mr. WHITE. Not quite.

Do you want additional authority beyond what you have under the antitrust laws in this bill to review these sorts of things? Or, do you think what you have is okay?

Mr. HUNDT. Well, I like what's in the bill. There is an issue in the bill about whether it is as specific as it might be applied to some of the emerging software topics that you and I discussed. I intend to communicate my views on that issue in my letter tomorrow, which I'm sure we'd be delighted to——

[The response follows.]

The Commission takes a cautious approach to intervening in the telecommunications marketplace, particularly given its rapidly-changing and technologically dynamic nature. However, where bottlenecks emerge, we must be vigilant and take steps to protect the American public from the potential abuse of any resulting market power. As telecommunications services move into the digital age, we need to ensure that consumers have the continued ability to choose freely among competing providers and to select the equipment used to access these networks and facilities. As an example, the Commission needs to be alert to circumstances in which industry interoperability—whether they are de facto or set by an industry group—are used anticompetitively. We believe that the Communications Act, related statutes, and provisions of H.R. 1555, as introduced, give the Commission sufficient authority to address such interoperability issues. There remains a question, however, whether H.R. 1555, as passed by the House of Representatives on August 4, 1995, would impact current Commission efforts to address interoperability issues involving consumer electronics equipment.

Mr. FIELDS. Will the gentleman yield to Mr. Markey?

Mr. WHITE. Sure, I'll be happy to.

Mr. MARKEY. The whole, you know, thrust of the last 4 or 5 years in the committee has been, how do we deal with this antitrust case back in 1982? So the objective, even including the checklist is to as much as we can, deal with this Justice Department issue.

So, what we're trying to do in this bill in all areas possible, is give to the FCC the authority to be able to create standards and protections that keep antitrust law—keeps these things out of the courts and allows for the FCC to work with industry participants that create standards that don't necessitate the antitrust cases, but then keep this progress that we want to see happen locked up in court decisions indefinitely.

So, there's a balance here and I think that we're trying to move it out of the courts.

Mr. WHITE. That's right, and I just want to understand from the chairman exactly what his approach was to that, and I think I do now understand it.

Mr. FIELDS. Mr. Chairman, we very much appreciate your patience in sitting with the committee, and rearranging your schedule. Thank you for being with us.

Mr. HUNDT. Thanks for having me.

Mr. FIELDS. We would like for our third panel to please assume your position at the table.

We really appreciate this panel for its patience. We have four distinguished witnesses: the Honorable Lisa Rosenblum, Deputy Chairman, New York Public Service Commission; Ronald Binz, the Director of the Colorado Office of Consumer Counsel; Rochelle Specter, Councilmember, City of Baltimore; and Jane Scully, Councilmember, City of Falls Church, Virginia.

Ms. Rosenblum, if you would please begin. We are going to ask that if you can present your remarks in 5 minutes; and at the end of 5 minute, I'll ask you to summarize if you're not finished.

Thank you.

STATEMENTS OF LISA ROSENBLUM, DEPUTY CHAIRMAN, NEW YORK PUBLIC SERVICE COMMISSION; RONALD J. BINZ, NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES; JANE SCULLY, CITY COUNCIL MEMBER, FALLS CHURCH CITY, VIRGINIA; ROCHELLE SPECTER, COUNCILWOMAN, CITY OF BALTIMORE AND MEMBER, BOARD OF DIRECTORS, NATIONAL ASSOCIATION OF COUNTIES

Ms. ROSENBLUM. Good afternoon, Mr. Chairman, Congressman Markey and members of the committee. Today I am appearing on behalf of the National Association of Regulatory Utility Commissioners, which represents the State utility commissions in the 50 States. We very much appreciate the invitation to appear.

NARUC's view is that H.R. 1555 makes a significant contribution to Federal telecommunications policy reform. It provides a sound framework to accelerate robust competition and to maintain our long-standing commitment to universal service. We applaud the committee for this intelligent legislation and appreciate the willingness—particularly of committee staff—to work with the States.

H.R. 1555 wisely recognizes the critical role of the States in bringing about local dial tone competition. Many States, including Michigan, New York, California, Illinois, Washington, Massachusetts and Oregon, among others, are leading the way to more customer choice and lower prices.

The legislation's requirement that the States certify the competitive checklist for RBOC interLATA entry is a major—let me underscore major—step forward and will enable the States to continue to spur competition. H.R. 1555's provision on universal service, the finest I've seen in legislation to date, will facilitate Federal/State collaboration on this critical issue while preserving State authority.

In the spirit of strengthening the legislation's pro-competitive goals, NARUC proposes that the committee consider revisions in three key areas: interconnection, local rate making and sunset provisions.

The interconnection section rightfully puts the RBOC's foot to the accelerator pedal to open the monopoly markets, and recognizes that State oversight of interconnection will facilitate competition.